

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 15289 of 2004

Between:

1. Paleti Hanumantha Rao, S/o. Venkataswamy,
Shivalayam Street, Tadepalligudem, West Godavari District.
2. Paleti Veera Venkata Nageswara Bhaskara Rao,
Pathavuru, 18th Ward,
Near Lakshmi Narasimha Swamy Temple,
Tadepalligudem,
West Godavari District.

..... PETITIONERS

AND

1. The District Collector, West Godavari, Eluru.
2. The Joint Collector, West Godavari,
Premises of the Collectorate,
Eluru.
3. The Revenue Divisional Officer, Eluru and
Competent Authority for Land Acquisition,
K. 80/000 to 152.000, National Highway No. 5,
West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction:

- i. Declaring that the action of the 2nd respondent in not issuing a fresh notice to them as told by her to their counsel on 29-10-2003 is highly arbitrary and capricious;
- ii. Directing the 2nd respondent to issue immediately to them a fresh notice as told on 29-10-2003 to their counsel to enable them to file their applications with required particulars one by the 1st petitioner alone in respect of Ac. 1.83 cents of Kunchenapally Village exclusively belonging to him and the other by the both of them jointly in respect of Acre 2.99 cents of the said village which was bequeathed to them by their mother, Under Section 3 G (5) of the National Highways Act as Amended in 1997, for determination of proper compensation by the arbitrator already appointed or to be appointed for the said land of them which was acquired by the Central Government in pursuance of the Notification S.O. 177(E) dated 7-2-2002 published in the Gazette of India No. 145 dated 7-2-2002 for widening National High Way No. 5 in the Revenue Division of Eluru, West Godavari District or receive immediately the said applications from them for the said purpose without issuing any fresh notice; and
- iii. Allow the Writ Petition with costs

Counsel for the Petitioner: MR.T.DURGA PRASAD RAO

Counsel for the Respondents 1to 3: GP FOR REVENUE

The Court, at the stage of admission, made the following:

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ORDER:

When the writ petition is taken up for hearing, learned counsel for the petitioners submits that, subsequent to filing the writ petition, the petitioners were served with a copy of the Award passed by the respondents, on 06.09.2004, determining the compensation, as regards the acquired lands in question.

In view of the submission of the learned counsel, the writ petition is disposed of. However, if the petitioner feels aggrieved by the order passed by the respondents, it is open to them to make an application before the respondents, seeking reference, as contemplated under Sub-Section (5) of Section 3 (g) of the National Highway Act, 1956 for referring the matter to an Arbitrator. If any such application is filed, it is needless to observe that the respondents are under obligation to refer the same to the Arbitrator. There shall be no order as to costs.

07.10.2004

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To

1. The District Collector, West Godavari, Eluru.

2. The Joint Collector, West Godavari,
Premises of the Collectorate,

Eluru.

3. The Revenue Divisional Officer, Eluru and
Competent Authority for Land Acquisition,
K. 80/000 to 152.000, National Highway No. 5,

West Godavari District.

4. Two CCs to the Government Pleader for Revenue, High Court

Buildings, High Court of A.P., Hyderabad (O.U.T)

5. 2 CD copies.